



COMMITTEE OF ADJUSTMENT
TOWNSHIP OF WAINFLEET

"Wainfleet - find your country side!"

FILE NO: **B08/2021W**

NOTICE OF DECISION

In the matter of the Planning Act; Revised Statutes of Ontario, 1990, Chapter P. 13 and;
In the matter of an application for consent on behalf of:

**Steven Rivers of South Coast Consulting (Agent)
Marisa & David Bergsma and John Vedder (Owners)**

Vacant Lot, Regional Road 27
Concession 4, Pt Lot 12, Wainfleet

Type of Transaction for which application for consent is being made:

☒ Conveyance ☐ Mortgage or Charge ☐ Partial Discharge of Mortgage ☐ Other

Subject of the application:

The subject property is located on the south side of Lambert Road, between Deeks Road South and O'Reilly's Road South and is known municipally as 50977 Lambert Road.

Application is made for the consent to:


- Sever Part 1 (4090.7m2) for future residential use;
- Retain Part 2 (27,900.0m2) for continued residential use


DECISION: ☒ GRANTED

☐ REFUSED


The above decision is subject to the following conditions:

PLEASE SEE SCHEDULE "A" ATTACHED HERETO FOR CONDITIONS AND REASONS


Chair M. Feduck


Member L. Bjerno


Member G. Balicki



Member R. Cross


Member S. McMillan

Date of Decision: August 18 2021

Date of Mailing: August 19 2021

I hereby certify this to be a true copy of the decision of the Committee of Adjustment for the Township of Wainfleet in the Regional Municipality of Niagara and this decision was concurred in by the majority of the members who heard the application.



Erin Shacklette, Secretary-Treasurer

Last date of filing an appeal to the Local Planning Appeal Tribunal under Section 53 of the Planning Act: **September 8th, 2021**

PROCEDURE FOR APPEAL

The Planning Act, R.S.O. 1990, Section 53, Subsection 19, as amended states: - "Any person or public body may, not later than **twenty (20) days after the giving of notice** under subsection (17) is completed, appeal the decision or any condition imposed by the council or the Minister or appeal both the decision and any condition to the Tribunal by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee prescribed under the Ontario Land Tribunal Act, 2021". The prescribed fee is \$400 and payable to the Minister of Finance.

Pursuant to Rule 7 of the OLT Rules, anyone who wishes to participate in an OLT appeal hearing as a participant shall file a written participant statement that sets out their position on the matter and issues of the proceeding, together with an explanation of their reasons in support of their position. A participant may only make submissions to the Tribunal in writing.



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SCHEDULE A – FILE B08/2021W

This is Schedule A, appended to and forming part of the Notice of Decision for Application for Consent B08/2021W.

Application is made for the consent to:

- Sever Part 1 (4090.7m²) for future residential use;
- Retain Part 2 (27,900.0m²) for continued residential use

DECISION: ☒ GRANTED

☐ REFUSED

The above decision is subject to the following conditions:

1. That the owner enter into a development agreement with the Township of Wainfleet, to be registered against the Title of Part 1, to require:
 - a. That the owner agrees to implement the recommendations of the Hydrogeological Study prepared by Terra Dynamics Consulting Inc. (dated May, 2021), including ensuring the private sewage system and cistern meet Ontario Building Code setbacks, and that the development agreement indicate water supply for the development will be provided by a cistern.
 - b. That owner agrees to implement the recommendations of the Environmental Noise & Vibration Feasibility Study prepared by GHD Limited (dated July 14, 2021), including the provision of brick veneer exterior walls backed by a furring partition with acoustic batt insulation filling the stud cavity and central air conditioning for all dwelling units.
 - c. That the owner agrees to retain a Qualified Professional to review the full scope and details of the required noise mitigation measures identified in the Environmental Noise & Vibration Feasibility Study prepared by GHD Ltd. (dated July 14, 2021), as part of the detailed design of the proposed single detached dwelling.
 - d. That any offers and agreements of purchase of sale or lease shall include the following warning clauses:
 - i. *"This dwelling unit has been supplied with a central air conditioning system which allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Municipality and the Ministry of the Environment, Conservation and Parks."*
 - ii. *"Warning: Purchasers or tenants are to be advised that Canadian Pacific Railway or its successors or assigns, have an operating right-of-way and a rail yard (Welland Yard) within 300 metres from the land subject hereof and there may be alterations to the right-of-way including the possibility that the Railway may expand its operations, which expansion may affect the living environment of the residents notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the subdivision and individual units, and that the Railway will not be responsible for complaints or claims arising from use of its facilities and/ operations."*
2. That the Drainage Superintendent be satisfied that the consent is appropriately captured under the Drainage Act through a Section 65 apportionment agreement.
3. That the Secretary-Treasurer be provided with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, for use in the issuance of the Certificate of Consent.



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4. That a final certification fee, payable to the Treasurer of the Township of Wainfleet, be submitted to the Secretary-Treasurer.
5. That all conditions of consent be fulfilled within a period of one year after notice has been given under Section 53(17) or 53(24), as per Section 53(41) of the Planning Act, R.S.O. 1990.

Reasons:

1. This decision is rendered having regard to the provisions of Sections 51(24) and 51(25) of the Planning Act, R.S.O. 1990, as amended.
2. The Committee of Adjustment considered all written and oral submissions and finds that, subject to the conditions of provisional consent, this application meets Planning Act criteria, is consistent with the Provincial Policy Statement and complies with the Growth Plan, the Niagara Region Official Plan and the Township Official Plan.

Date of Decision: August 18 2021

Date of Mailing: August 19 2021

I hereby certify this to be a true copy of the decision of the Committee of Adjustment for the Township of Wainfleet in the Regional Municipality of Niagara and this decision was concurred in by the majority of the members who heard the application.

All conditions of Consent must be fulfilled by: (August 18 2022)

Erin Shacklette, Secretary-Treasurer